THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 27th day of December, 2006

W.P.No.7153 of 2003

Between:

N.Konthalapadu Gram Panchayat,
Orvakallu Mandal, Kurnool District,
represented by its Sarpanch
Smt. P. Lakshmi Devi … Petitioner

and

The Superintending Engineer,
Minor Irrigation, Kurnool & others …
Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of respondents 1 to 3 in not directing the 4th respondent to construct check dam across Mollakunta vagu near N. Konthalapadu village, Orvakallu Mandal, Kurnool district in the lands belonging to Gram Panchayat by shifting the proposed construction of the check dam from his lands in Survey Nos.472, 474, 480, 482 and 507 of N.Konthalapadu village as arbitrary, illegal and contrary to the resolution passed by the Gram Panchayat on 16-4-2003 and consequently to direct respondents 1 to 3 to direct the 4th respondent to shift the construction of check dam across Molakunta vagu from his lands to the Government poramboke belonging to the Gram Panchayat.

Petitioner is a Gram Panchayat. In order to develop the underground water level, to maintain perennial water flow in the tanks and to increase the water level in the wells and borewells, the Government has decided to construct check dams across the tanks etc, with the financial aid of NABARD. Government has undertaken such constructions under RIDF scheme. Pursuant to the same, the 3rd respondent sanctioned an amount of Rs.278.90 lakhs vide Proceedings Rc.No.D2/159/RIDF-VIII/2002-03, dated 12-5-2002. Thereafter, official respondents have decided to construct check dams

in some of the villages in Orvakallu Mandal, and N. Konthalapadu village is one, which is chosen for constructing two check dams, out of which, one across Mollakunta vagu. An amount of Rs.3.40 lakhs was sanctioned for construction of the said check dam. Respondents 1 to 3 have decided to construct the check dam across Mollakunta vagu by entrusting the said work to the 4th respondent and another work relating to construction of Meedi Vemula water shed to another person. Petitioner has no objection for entrusting the said work to the above persons. But, at the behest of the 4th respondent to satisfy his selfish needs, respondents 1 to 3 have accepted to construct the check dam in the lands belonging to the 4th respondent in Survey Nos.472, 474, 480, 482 and 507 of the village. The said land to an extent of Ac.10.00 belonging to the 4th respondent is situated far away from the village and in the said land, Ac.2.00 of Vagu kunta is existing and on it, respondents 1 to 3 have decided to construct a check dam and the same will not be useful to cater the needs of the village. If the said check dam is constructed in the lands of 4th respondent, the same will be useful only to the 4th respondent and some farmers, who have lands adjacent to the lands of the 4th respondent. Therefore, no useful purpose would be served if the check dam is constructed in the lands of the 4th respondent. On the other hand, there is a poramboke land, which is very near to the village and if the check dam is constructed in that land, it would cater the needs of the villagers. Therefore, the petitioner as well as the villagers made a representation to the 3rd respondent on 20-2-2003 to construct a check dam in the land belonging to Gram Panchayat, which is very near to the village instead of constructing it in the lands of the 4th respondent. But, no action has

been taken so far. Hence, this Writ Petition.

A detailed counter affidavit has been filed by the 2nd respondent denying the allegations made by the petitioner and asserting that it is not for the Gram Panchayat to say where a check dam should be constructed. The main object of construction of check dams under RIDF is to perennialise the non-perennial streams on water shed basis, to improve Ground Water Recharge and water infiltration and to take up conservation measures so as to improve the fallow lands, assigned lands, Government lands etc. It also aims to increase the water holding capacity in tanks for additional irrigation, rejuvenating the dried up irrigation wells, bore wells with a scope to create more agricultural area under irrigation for additional crop and improving quality of water through dilution for drinking water purpose. Further, the resolution passed by the Gram Panchayat is nothing to do with this and the same cannot be accepted, as they have no technical knowledge and their suggestions may not be feasible. It is for the Departmental authorities to execute a project of this nature, including its location. Hence, the representation dated 17-4-2003 to change the site of the check dam was not accepted.

While admitting the Writ Petition, on 30-4-2003 this Court directed that the check dam in question shall be constructed only at such place as was identified by the 2nd respondent while according sanction. There is no mention as to what happened to the interim order passed by this Court on 30-4-2003. But, one thing is sure that the check dam was not taken up. Now, it is more than three years. Therefore, still there is a necessity to construct a check dam at Mollakunta vagu, it is always open for the respondents to issue a proper notice to the petitioner and decide the matter afresh after hearing the Gram Panchayat.

With the above direction, the Writ Petition is disposed of. No order as to costs.

27-12-2006

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